

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	CC Docket No. 95-116
Petition Filed by Cellular Telecommunications)	DA 03-1753
& Internet Association for Declaratory Ruling)	
on Local Number Portability Issues)	
To: The Commission		

COMMENTS OF RURAL CELLULAR ASSOCIATION

Rural Cellular Association (“RCA”) ^{1/}, by its attorneys, respectfully submits these Comments in response to the Federal Communications Commission’s May 22, 2003 Public Notice ^{2/} seeking comment on the Petition filed by the Cellular Telecommunications & Internet Association (“CTIA”) for a Declaratory Ruling to clarify carrier obligations with respect to local number portability (“LNP”) implementation issues. ^{3/} For the reasons described below, RCA urges the Commission to adopt a different conclusion than is suggested by CTIA with regard to clarification of obligations related to wireless-to-wireless local number portability. In other respects, as indicated, RCA supports CTIA’s requests.

The FCC has stated that the purpose of LNP is to make it easier for consumers to switch carriers, to promote competition between and among wireless and wireline carriers, and to

^{1/} RCA is an association representing the interests of small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide service in more than 135 rural and small metropolitan markets where approximately 14.6 million people reside. RCA was formed in 1993 to address the distinctive issues facing these wireless service providers.

^{2/} *Comment Sought on CTIA Petition for Declaratory Ruling on Local Number Portability Implementation Issues*, CC Docket No. 95-116, Public Notice, DA 03-1753 (rel. May 22, 2003).

^{3/} 47 C.F.R. § 22.925.

encourage efficient use and administration of numbering resources.⁴ Even though all of these objectives are being met in today's marketplace without LNP capability, the wireless telecommunications industry is obligated to deploy LNP beginning November 24, 2003. While the Commission has deferred to the industry a great deal of discretion in determining the means of LNP implementation, and much progress has been made in that regard, specific direction from the agency is urgently needed to enable the industry to meet the LNP compliance schedule. Below is a discussion of the areas requiring clarification, as set forth in CTIA's Petition, and viewed from the perspective of small rural wireless carriers represented by RCA.

The Rate Center Parameter for LNP Is Necessary for All Wireless Carriers.

In CTIA's *Petition for Declaratory Ruling* filed January 23, 2003 ("*Rate Center Petition*"), the issue of defining the boundary of porting obligations was presented for clarification by the Commission. The *Rate Center Petition* asserted that wireline carriers are obligated to provide portability of their customers' telephone numbers to Commercial Mobile Radio Service ("CMRS") providers whose service area overlaps the wireline carriers' rate centers, and not only to CMRS providers who have established a presence in the landline rate center. Furthermore, the *Rate Center Petition* urged that this be accomplished via a standard service-level porting agreement between the carriers, not requiring an interconnection or other formal agreement.

CTIA notes in the subject Petition that comments received by the Commission on this topic vary in their degree of support for CTIA's proposal. While a broader area of geographic requirement favors the ability of consumers to port between wireless and wireline carriers, some

⁴ *Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation*, WT Docket No. 01-184, and *Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order, 17 FCC Rcd 14972 (2002) ("*Verizon Wireless LNP Forbearance Order*").

CMRS carriers supported the rate center restriction as a means to also restrict the area of wireless-to-wireless porting. Wireless-to-wireless LNP obligations would thus be imposed only where both CMRS carriers have numbering resources and interconnection facilities within the same rate center, such that a call from a non-ported number to a number ported from the original CMRS carrier would be routed and rated as a local call. LNP would be effectively available to the consumer only if the number is ported within the local calling area. This is a geographical restriction that RCA strongly supports. To do otherwise could result in calls that have always been local suddenly becoming toll calls. *Having never indicated an intention that LNP should be more broadly available, the FCC should clarify that local number porting must be local.*

Consumers have been informed by the Commission's Consumer & Governmental Affairs Bureau that the type of telephone number portability that local exchange carriers must provide is that which allows a customer to keep his telephone number when changing *local* telephone companies. A consumer advisory issued by that Bureau explains that "[service provider portability] does not allow customers to take their telephone numbers with them when they move."⁵ The same scenario should be applied to wireless LNP, and it should be explained to consumers in the same manner, that is, as an opportunity available in limited situations to keep one's *local* telephone number when switching *local* service providers.

In contribution to a determination of what constitutes "local" number portability, the United States Telephone Association ("USTA") submitted upon the request of Wireline Competition Bureau staff USTA's definition of what constitutes a physical "point of presence" within the wireline rate center for the purpose of porting numbers. USTA defined the point of

⁵ . This is the LNP environment explained in the Consumer and Governmental Affairs Bureau's FCC Consumer Facts publication entitled "Keeping Your Phone Number When You Change your Service Provider." The entitlement is referred to as "service provider portability," as opposed to any personal claim to a particular telephone number.

presence as: “ A location that contains physical circuit(s) (i.e.: DS0, DS1, DS3, OCn) that provides interconnection trunking between the ILEC and interconnecting service provider.” RCA concurs in this definition and the limitation on wireless-to-wireless LNP obligations that it entails. RCA supports a parallel definition for locality between wireless CMRS carriers, namely where both CMRS carriers have numbering resource and interconnection facilities within the same rate center.

Any broader application area of LNP requirements would be highly prejudicial to small rural wireless carriers. RCA anticipates that porting requests will occur more often among customers seeking to migrate their accounts to larger carriers with wider service areas if the customers believe that porting can make their telephone numbers become “local” in a larger area. The disproportionate costs of LNP and exodus of customers from small carriers to large carriers will harm the small rural wireless carrier. More harm than good will be caused to competition if the small rural carrier’s commitment to high quality service in rural areas is overcome by a perceived advantage of number porting to another wireless carrier’s larger service area. Numbers are a resource of each carrier that contributes to its competitive positioning in the marketplace. While local porting is to be allowed, distance porting should be prohibited.

The need for FCC concurrence in the restricted definition of “local” porting is obvious, and it is urgent. Wireless LNP obligations must be refined immediately so that CMRS carriers can commandeer resources for LNP compliance, so that personnel can be trained to understand the local rate center and interconnection environment, and so that customers can know where porting is and is not available.

Porting Intervals Should Be Clarified.

On another issue RCA agrees with CTIA that the Commission must limit the time within which carriers must implement porting requests, and the time windows should be uniform among categories of porting. For example, the FCC should require that wireless-to-wireless porting be accomplished within one business day. Wireline-to-wireless porting should be accomplished within two business days or such other interval as can be justified by LECs. As a matter of reciprocity and fairness, the wireless-to-wireline interval should be the same as the wireline-to-wireless interval.

Intramodal and intermodal porting intervals should be short in order for the customer to bear the least interruption and so that call back capability by 911 safety personnel is not compromised. Prompt fulfillment of porting requests is essential to the purpose of porting; delayed porting defeats the convenience intended by keeping one's own phone number. Unpredictability of the porting term likewise would dampen consumers' enthusiasm for LNP. Automation and uniformity of porting mechanisms among all service providers should be required, and the manner adopted should facilitate the most efficient updating of the National Portability Administration Center. FCC action directing the permitted term for porting intervals is necessary to resolve this matter.

Interconnection Agreements Should Not Be Required for Number Porting

The terms under which carriers agree to test and port numbers to one another can become the subject of lengthy negotiations without input from the Commission on reasonableness of intercarrier agreements. Disputes can be avoided if common terms and conditions are devised or approved by the FCC. LNP should not have to be the subject of wireless and wireline carrier interconnection agreements governed under Section 252 of the Communications Act and filed

with the state commission. In the context of intermodal LNP, a straightforward service level porting agreement is sufficient as the basis for intercarrier porting. The Commission should exercise its federal authority and declare that formal interconnection agreements are uniformly excluded as an element of wireline-to-wireless LNP implementation. Without such action number portability will take longer, be more costly and be subject unnecessarily to the state review process. Without FCC guidance, interconnection agreements will be easily wielded as devices to slow the competitive promise of number portability.

Additional Issues Require Clarification.

The FCC must resolve the question of whether the definition of top 100 Metropolitan Statistical Areas (“MSAs”) include the modifications adopted in Census 2000, particularly the creation by the U.S. Census Bureau of combined MSAs, or CMSAs. Carriers must make budgetary and staffing decisions based upon whether they will be required to be LNP capable by November 24, 2003. At this late date it would be fair to exclude from the definition counties added to the top 100 markets by virtue of having been placed in a new CMSA. Operators in those markets have not had the advantage of clear knowledge of their implementation dates. Therefore they should be allowed more time to become LNP capable.

Likewise, the Commission should refrain from requiring carriers in the largest 100 MSAs to deploy LNP and participate in thousands block number pooling regardless of whether they have received a specific request to provide LNP from another carrier. To require deployment would prejudice the carriers and deprive them of adequate time to prepare for the deadline.

Finally, the Commission should resolve how nationwide roaming standards and requirements for pooled and ported numbers are to be implemented. Uncertainty in this area adds to the burden of small and rural carriers whose financial resources for LNP and thousands block


number pooling are limited. For the good of the industry and of consumers, FCC determination of these unresolved issues should be forthcoming in an expeditious manner.

Conclusion

The need for imminent clarification of carrier responsibilities of the LNP issues described above is very clear. Carriers are duty bound to acquire, install, test and implement LNP software and equipment in accordance with FCC mandates. At the same time they must train personnel and educate customers as to the application of LNP to specific circumstances. As explained herein, wireless-to-wireless LNP should be required only when wireless carriers have numbering resources and interconnection facilities within the same rate center. The Commission should recognize the implications of LNP requirements on small rural wireless carriers, restrict its mandates accordingly, and expeditiously issue a Declaratory Ruling clarifying the issues in this matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Loren Costantino, an employee in the law offices of Lukas, Nace, Gutierrez & Sachs, Chartered, do hereby certify that I have on this 13th day of June, 2003, sent by U.S. Mail, a copy of the foregoing COMMENTS OF RURAL CELLULAR ASSOCIATION to the following:

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